Supreme Court, U.S.
FILED

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No.

In The

Supreme Court of the United States

October Term, 1997

ALEXANDER BENDE,

Petitioner,

vs.

MICHAEL BROGDON,

Respondent.

On Petition for Writ of Certiorari to the Court of Appeals, Fourth Appellate District, Division One, State of California

PETITION FOR WRIT OF CERTIORARI

J. KENNETH JENSEN
Attorney for Petitioner
4180 La Jolla Village Drive
Suite 205
LaJolla, California 92037
(619) 455-1107

145627

(800) 274-3321 • (800) 359-6859
A DIVISION OF COUNSEL PRESS

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26 pp

QUESTIONS PRESENTED

1. When the only evidence supporting a search warrant is a police officer's slanderous allegations of criminal activity alleged to have been furnished by an unknown and untested source, without corroborating evidence, is the officer immune from liability, in a 42 U.S.C.A. § 1983 action, for damages caused by the execution of the warrant?

2. Therefore, is the police officer entitled to summary judgment notwithstanding the fact that *every* statement in the declaration in support of the search warrant is false, there is no objective corroboration, and Petitioner's sworn testimony, in contradiction, that *none* of the occurrences in the officer's unsupported declaration actually occurred?

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OPINIONS BELOW

The Order of the trial Court granting Summary Judgment, the opinion of the Court of Appeal of the State of California, Fourth Appellate District, Division One and the denial of a hearing in the California Supreme Court are in the Appendix, and but not reported in the Official Reports.

STATEMENT OF JURISDICTION

The Judgment in the Appendix, which Petitioner seeks to have reviewed is dated December 5, 1994 and was filed on that date.

The Court of Appeal of the State of California Fourth Appellate District Division One affirmed the Judgment of the trial Court June 10, 1997.

A rehearing by the Court of Appeal of the State of California Fourth Appellate District Division One, was denied on July 1, 1997.

Review in the California Supreme Court was denied on August 27, 1997.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourth Amendment to the Constitution of the United States and 42 U.S.C. § 1983 state as follows:

Fourth Amendment:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

42 U.S.C. § 1983:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . .

STATEMENT OF THE CASE

The affidavit of the police officer to obtain the search warrant was a *total* fabrication of slanderous accusations, and not corroborated by any competent investigation.

Petitioner is the proprietor of a family owned, upscale high quality, Perfume and Cosmetics store, in the center of the fashionable shopping area in La Jolla, California.

On January 20, 1993 at approximately 1:45 p.m., in the afternoon, a van filled with police officers parked in this

shopping area, about a block and a half away from Petitioner's store, and around a corner.

The side door of the police van opened suddenly, and a large dog along with a raiding squad of six police officers poured out of the van and onto the street. The officers were heavily armed, wearing yellow bulletproof vests, with large police insignias prominently displayed.

It was the middle of the day, when this assault team poured out of their official van and rushed up the street, with a large police dog, to raid Petitioner's store.

Petitioner was talking to a customer when the squad burst in and swarmed all over his store. Any customers in the store, at the time, were forced to identify themselves, and were held, while the police checked each customer.

As the police swarmed into the store, one of the police guarded the entrance and would not allow anyone into or out of the store.

For the next two hours the police occupied the store while they conducted a meticulous search. The police were emptying all of the drawers and searching everywhere and everything. During this invasion, Petitioner was confined to a chair and was not free to leave.

He was considered a criminal subject to prosecution. Any shoppers at or near the store were given the impression that Petitioner was conducting some kind of illegal business, and had been caught.

Absolutely nothing of a criminal nature was discovered during this lengthy and meticulous search — *nothing*. Nothing

of any kind that could even be translated into some kind of a record of illegal activity — *nothing*.

Petitioner has *never* been involved in any way with narcotics.

Respondent Brogden had obtained a search warrant from a compliant magistrate. The declaration which Brogden submitted to the Magistrate recited that an unknown and untested source accused Appellant of dealing drugs out of his store. The slanderous accusations were very general and not specific as to time or place. These accusations which Brogden claimed to have heard, were to the effect that, "they" saw young people in their twenties enter the store and leave without visible packages — that other unspecified persons were suspected of possible illegal activity at the store — and that "they" have overheard arguments by customers about quality and weight — which meant the sale of drugs. The affidavit also falsely says that a young male lives on the premises. This is not only false, but impossible considering the layout of the store.

Next Brogden claims to have observed the store, on only one occasion, on a very rainy day, for approximately twenty minutes, during business hours. On that occasion he claimed that he saw at least two customers leave the store without any visible packages. One of the packageless customers raised his hand to his face as if to smell something after leaving this perfume store.

At that time Brogden falsely claims to have observed two middle eastern appearing employees of the store. There have never been any male employees in the store, this is a family run business.

To assist Brodgen's investigation, a Detective Loucks went into the store for approximately five minutes and was unable to report anything suspicious.

The twenty minutes Brogden spent observing the store on a rainy day and the five minutes Loucks spent *was the sum total of the police investigation.*

The implausible surveillance claimed by Brogden, did not confirm suspicious criminal activity at this retail perfume and cosmetic store. Persons coming into and leaving a store selling perfume, after checking prices and merchandise and obtaining samples is not unusual.

To interpret such normal activity as criminally suspicious in an attempt to obtain a search warrant, and to further attempt to substantiate this interpretation with the alleged slander of a claimed undisclosed source is patently and objectively unreasonable.

Brodgen knew he could not translate the activities observed, during those two brief police surveillance into something convincingly suspicious. Therefore, Brogden had to compose the slanderous accusations, he claimed to have heard from an unknown source, in order to obtain the search warrant, he wanted.

Petitioner brought an action in the San Diego County, State of California, Superior Court pursuant to 42 U.S.C. § 1983.

Brodgen brought a motion for Summary Judgment. Petitioner disputed every material fact that Brogden set forth in his statement of undisputed facts.

Except for Appellant's address, *every* statement of fact recited in the Brodgen's affidavit is a falsehood; including the implausible investigation and surveillance.

Brogden does not dispute the fact that Petitioner was wronged by this police misconduct.

The *only* evidence to support the motion for Summary Judgment and Brogden's defense of qualified immunity were the words spoken or written by Brogden. The only support for Brogden's motion for Summary Judgment were untruthful statements about events that never occurred.

Petitioner's interrogatory responses, under oath state that *none* of the fabricated events occurred.

This is a 42 U.S.C.A. § 1983 case and Petitioner cited *Malley v. Briggs*, 475 U.S. 335, 89 L. Ed. 271, 106 S. Ct. 1092 and the Fourth Amendment to the United States Constitution in opposition to the motion for Summary Judgment. The Superior Court ignored these citations, and granted Summary Judgment, on the grounds that Petitioner must have objective proof, other than Petitioner's testimony, to contradict the subjective testimony of Brodgen.

The subjective statements of Brogden were taken as undisputed facts and therefore, there was no triable issue of fact because of Respondent's immunity from liability.

In other words, Petitioner must prove that which did not happen; and impossible and unreasonable burden.

Petitioner, swore under oath, in response to Brogden's special interrogatories, that *none* of the events which Brogden claimed to have been told to him by his source occurred — *none*. Every fact claimed by Brodgen is disputed — there were no conversations about drugs — no drug transactions of any kind — no one lived on the premises — no suspicious business customers — no male employees and, no suspicious activity.

Brodgen had almost nine years of experience in how to compose an affidavit for a search warrant. Brodgen is careful

not to be too specific in composing the affidavit; confident with the knowledge that any alleged source cannot be discovered, even if a citizen seeks redress.

The trial court refused to consider *Malley v. Briggs*, 475 U.S. 335, 89 L. Ed. 2d 271, 106 S. Ct. 1092 and chose to ignore the case.

The Court of Appeal of the State of California, Fourth Appellate District, Division One, disregarded *Malley v. Briggs*, 475 U.S. 335 89 L. Ed. 2d 271, 106 S. Ct. 1092, and affirmed the Summary Judgment of the Superior Court.

REASONS FOR GRANTING THE WRIT

In the Petitioner's jurisdiction most magistrates are indifferent to the lack of a real police investigation, in the application for a search warrants. Police officers are considered immune and not held to the standards of *Malley v. Briggs*, 475 U.S. 355, 106 S. Ct. 1092.

In this case it should have been a triable issue of fact as to which of the parties is truthful and whether the conduct of Brodgen was objectively reasonable.

The very purpose of a competent investigation is to guard against an innocent citizen being seized and terrorized by law enforcement agents.

It is equally as damaging to have the slander of a enemy acted out by the police without having to worry about identity be disclosed. Competent police investigation prevents such victimization of innocent citizens.

The issue of liability should be tried if, on an objective basis, it is obvious that no reasonably competent officer would have concluded that a warrant should issue.

This case differs from many of the reported cases in that, in addition to the testimony of law enforcement agents, the reported cases all contain some objective evidence, even though such objective evidence may be viewed differently by the opposing sides. *This case does not have any such objective evidence.* There is absolutely no objective evidence of criminal activity in this case — none.

Summary Judgment is a drastic measure to be employed when the facts are uncontroverted and no triable issue exists. Brogden concedes that is the law, but contends that the facts which he composed should be uncontroverted and he should be entitled to immunity.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that this petition for a writ of certiorari should be granted.

That the Supreme Court of the State of California be directed set aside the Summary Judgment and to remand the case to the trial Court for further proceedings.

Respectfully submitted,

J. KENNETH JENSEN
Attorney for Petitioner
4180 La Jolla Village Drive
Suite 205
LaJolla, California 92037
(619) 455-1107

APPENDIX A — OPINION OF THE COURT OF APPEAL, FOURTH APPELLATE DISTRICT, DIVISION ONE, STATE OF CALIFORNIA FILED JUNE 10, 1997

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

COURT OF APPEAL, FOURTH APPELLATE DISTRICT
DIVISION ONE
STATE OF CALIFORNIA

D023800
(Super. Ct. No. 664326)

ALEXANDER BENDE,

Plaintiff and Appellant,

v.

MICHAEL BROGDON,

Defendant and Respondent.

APPEAL from a judgment of the Superior Court of San Diego County, Anthony C. Joseph, Judge. Affirmed.

Alexander Bende, sole proprietor of Alexander's Perfumes and Cosmetics in La Jolla, brought an action under 42 U.S.C., section 1983 for false imprisonment and also alleged negligent and intentional infliction of emotional distress against Michael Brogdon, a San Diego Police Department detective. According to Bende, Brogdon unlawfully obtained a search warrant for Bende's store. The trial court granted Brogdon's motion for summary judgment, finding no evidence to support Bende's conclusory allegations of wrongdoing. Bende appeals the

judgment entered in Brogdon's favor, contending triable issues of material fact exist and Brogdon's summary judgment motion should have been denied.

FACTS

On December 7, 1992, the San Diego Police Department's Narcotics section (police) received a telephone complaint from a confidential citizen informant. The informant had observed young people entering and leaving Bende's upscale store in less than two seconds, had seen money and suspicious objects change hands, and had overheard an argument in which Bende said he dealt drugs. The complaint was assigned to Brogdon and, on December 15, he contacted the citizen informant.

The citizen informant confirmed that men and women in their early twenties would enter the store during business hours, stay for a few seconds, then leave without any cosmetic or perfume packages. The informant reported overhearing arguments about the poor quality of narcotics, the inaccurate weights of narcotics, and the selling of narcotics to acquaintances of the young people. Brogdon spoke to the citizen informant again a couple of days later to check if any more information was available. The informant said no.

On December 22, the police received an anonymous postcard. This postcard read: "drugs sold at Alexander Skin Care Institute in La Jolla." The card also gave the address of Bende's store.

On January 6, 1993 at 1 p.m., Brogdon began surveillance of Bende's store. Brogdon watched the store from his car because it was raining heavily. Brogdon's car was parked in a space approximately 120 feet from the store. At 1:06 p.m., Brogdon

saw a young Hispanic male enter the store, have a brief conversation with an employee just inside the front door, walk towards the back of the store, and leave the store within one minute. As the man left the store, he appeared to inspect something he was holding in his left hand and then put the object in his pocket. The man drove away in an older Toyota sedan and Brogdon tried to follow him. Brogdon was unable to follow the car because of heavy traffic and he returned to the same parking space.

At approximately 1:20 p.m., Brogdon saw a young white male enter the store, speak to an employee just inside the front door, and walk to the rear of the store. About two minutes after the young white male had entered the store, he left without any packages. Brogdon did not attempt to follow the man. Brogdon described the two employees as male, Middle Eastern, and wearing business suits. Brogdon terminated his surveillance at 1:35 p.m.

On January 7 at 1:10 p.m., Brogdon watched, from the same parking space as the day before, while Detective Loucks entered the store in an undercover capacity. Loucks spoke to a female employee about perfume and saw another male Middle Eastern employee. Loucks left the store at 1:15 p.m.

On January 12, Brogdon submitted a search warrant affidavit based on the complaints and his investigation. A search warrant was issued for Bende's store and the police executed the search warrant on January 20 at 1:45 p.m. The police did not find any narcotics or other contraband. However, a police dog trained in narcotics detection gave a positive alert to a file cabinet in the store's office area. The cabinet was searched, but it did not contain any narcotics. The search ended at 2:35 p.m.; no arrests were made.

Appendix A

DISCUSSION

I. *Standard of Review*

Summary judgment is proper when there is no triable issue of material fact and the moving party is entitled to judgment as a matter of law. (Code Civ. Proc., § 437c, subd. (c).)[1] A defendant moving for summary judgment has the burden of showing that one or more elements of the plaintiff's cause of action cannot be established or that there is a complete defense to that cause of action. (§ 437c, subd. (o)(2).) Once the defendant has met that burden, the burden shifts to the plaintiff to establish a triable issue of material fact. *(Ibid.)* The plaintiff may not rely on mere allegations or denials in its pleadings but, instead, shall set forth specific facts showing that a triable issue of material fact exists. *(Ibid.)*

A plaintiff's burden in such circumstances was addressed and explained in *Lopez v. Superior Court (1996)* 45 Cal.App.4th 705.

> "[T]he 1992 and 1993 amendments to Code of Civil Procedure section 437c were intended to apply a particular burden-shifting characteristic of the federal procedure to California summary judgment motions: ' "Now, a moving defendant may rely on factually devoid discovery responses to shift the burden of proof pursuant to section 437c, subdivision (o)(2). Once the burden shifts as a result of the factually devoid discovery responses, the plaintiff must set forth the specific facts which prove the existence of

1. All statutory references are to the Code of Civil Procedure.

> a triable issue of material fact." ' [Citation.] Under federal law, 'the moving party always bears the initial burden of establishing the absence of a genuine issue of material fact. [Citation.] However, if the nonmoving party bears the burden of proof on an issue at trial, the moving party *need not support its summary judgment motion with evidence negating an essential element of the nonmoving party's case* to satisfy its burden. [Citation.] The moving party may simply point to the *absence of evidence* to support the nonmoving party's case. [Citation.] The nonmoving party must then "set forth specific facts showing that there is a genuine issue for trial." [Citation.] This can be accomplished by producing "specific evidence, through affidavits or admissible discovery material, to show that the dispute exists." ' [Citation.]" (*Lopez v. Superior Court, supra,* at p. 713, quoting *Hunter v. Pacific Mechanical Corp.* (1995) 37 Cal.App.4th 1282; but see *Addy v. Bliss & Glennon* (1996) 44 Cal.App.4th 205, 214.)

We review the trial court's decision to grant summary judgment de novo. *(Lopez v. Superior Court, supra,* 45 Cal.App.4th at p. 713.)

II. *Analysis*

Bende contends Brogdon's search warrant affidavit contained false statements and that a reasonable police officer would know the information in the affidavit was insufficient to establish probable cause. In response, Brogdon claims Bende has no evidence to support these accusations and thus Brogdon is entitled to judgment premised on qualified immunity.

Appendix A

A police officer is entitled to qualified immunity from a damages action based on obtaining an allegedly unconstitutional search warrant when his conduct is objectively reasonable. *(Malley v. Briggs* (1986) 475 U.S. 335.) "Only where the warrant application is so lacking in indicia of probable cause as to render official belief in its existence unreasonable [citation] will the shield of immunity be lost." *(Id.* at pp. 344-345.) The question is "whether a reasonably well-trained officer in [Brogdon's] position would have known that his affidavit failed to establish probable cause and that he should not have applied for the warrant." *(Id.* at p. 345, fn. omitted.) A law enforcement officer is clearly not entitled to qualified immunity where his behavior demonstrates a knowing disregard for established legal rights. *(Elene H. v. County of Los Angeles* (1990) 220 Cal.App.3d 1445, 1453.)

In moving for summary judgment, Brogdon bore the burden of establishing the qualified immunity defense or negating an essential element of Bende's underlying claims. To do so, he relied on the following evidence: his search warrant affidavit; his deposition, and Bende's responses to his special interrogatories.

As noted, the warrant affidavit was based on a telephone tip from a confidential citizen informant, an anonymous tipster, and Brogdon's investigation. The informant reported seeing activity consistent with narcotics sales at Bende's store. The citizen informant also reported overhearing arguments between the store owners and young people regarding the quality and weight of narcotics and their sale to acquaintances. Later the police received a postcard from an anonymous source reading, "drugs sold at Alexander Skin Care Institute." Brogdon's surveillance confirmed the suspicious activity complained of by the informant and the anonymous tipster.

Appendix A

Absent evidence to contradict the truthfulness of Brogdon's affidavit, his representations provided substantial basis for a neutral magistrate to conclude probable cause existed (*Illinois v. Gates* (1983) 462 U.S. 213) and support Brogdon's qualified immunity defense. Similarly, when asked in his deposition if he knew any of the representations were false, Brogdon said "no."

In special interrogatories to Bende, Brogdon specifically asked Bende to set forth the evidence he had to support his allegations of false affidavit statements and lack of probable cause. Instead of complying, Bende responded with conclusory statements, merely repeating the allegations in his complaint.

For example:

"SPECIAL INTERROGATORY NO. 7:

State each and every fact upon which you base your contention that the conduct of defendants in this case amounted to a constitutional violation of your civil rights pursuant to 42 U.S.C. section 1983, and identify all documents and witnesses in support of these facts.

"RESPONSE TO SPECIAL INTERROGATORY NO. 7:

Almost all the facts contained in the affidavit to obtain the search warrant were false and known by the police officers to be false and their injury to the plaintiff pursuant to that search warrant was done under color of state law. Discovery is continuing and all documents and witnesses will be furnished when obtained.

Appendix A

"SPECIAL INTERROGATORY NO. 10:

Identify each 'material fact' which you alleged in paragraph 1.a. of the First Cause of Action in your Amended Complaint to be false and/or misleading.

"RESPONSE TO SPECIAL INTERROGATORY NO. 10:

All of the facts contained in the affidavit for search warrant with the exception of the address of the premises and brief observations of some of the defendants were false and the defendants knew they were false.

"SPECIAL INTERROGATORY NO. 11:

For each 'material fact' listed in your response to the previous interrogatory, describe in detail how said fact was false and/or misleading, and identify all documents and witnesses to support your contentions.

"RESPONSE TO SPECIAL INTERROGATORY NO. 11:

The facts in the affidavit were fabricated for the purpose of invading plaintiff's place of business and subjecting him to confinement."

Taken together, this evidence was sufficient to shift the burden of proof to Bende — that is, standing alone, Bende's conclusionary responses to Brogdon's interrogatories were sufficient to shift the burden of proof from Brogdon to Bende. (*Union Bank v. Superior Court* (1995) 31 Cal.App.4th 573, 580-581.) In essence, Bende's answers to interrogatories

amounted to an "absence of evidence." Brogdon properly could rely on this void to establish that Bende could not prove his causes of action. *(Lopez v. Superior Court, supra,* 45 Cal.App.4th at p. 713.)

Relying on *Malley v. Briggs, supra,* 475 U.S. 335, Bende contends the court erred in granting summary judgment. While Bende correctly asserts Brogdon is only entitled to qualified, not absolute, immunity, Bende fails to recognize that once the burden of proof shifted to him, he had to come forward with evidence to defeat Brogdon's motion.

In opposition to Brogdon's summary judgment motion, Bende argued there were triable issues of material fact but failed to present any admissible evidence. Instead, in his "Separate Statement in Opposition to Facts Contended to be Undisputed," Bende relied upon his responses to Brogdon's interrogatories and repeated allegations made in his third amended complaint. As discussed above, these interrogatory answers were conclusory. Bende did not identify witnesses, submit declarations or provide other admissible evidence. When, as here, the burden has shifted, Bende may not rely on mere allegations or conclusory assertions. Rather, he must set forth specific facts showing that a triable issue of material fact exists. Bende failed to do this and thus did not meet his burden of proof.

Based on the record before us, we find Bende failed to present any evidence indicating Brogdon's conduct in applying for the search warrant was objectively unreasonable or that any of the representations set forth in the search warrant affidavit were untrue. Therefore, Brogdon is entitled to qualified immunity and the court properly granted summary judgment in his favor.

Appendix A

DISPOSITION

Affirmed. Bende shall bear the costs of this appeal.

s/ Haller
HALLER, J.

WE CONCUR:

s/ Kremer
KREMER, P.J.

s/ Nares
NARES, J.

APPENDIX B — ORDER OF THE SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF SAN DIEGO FILED DECEMBER 5, 1994

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO

No. 664326
I/C JUDGE: Hon. A. Joseph

DATE: 10/28/94
TIME: 10:00 a.m.
DEPT: 43
TRIAL:

ALEXANDER BENDE,

Plaintiff,

v.

MICHAEL BROGDON,

Defendant.

ORDER GRANTING SUMMARY JUDGMENT

Defendant Michael Brogdon's motion for summary judgment on plaintiff's third amended complaint was heard and considered on written submissions by the parties on October 7, 1994. On that date the following telephonic ruling was issued:

"Defendant's motion for summary judgment on plaintiff's third amended complaint is granted. Plaintiff's Separate Statement contains no evidence to support his conclusory allegations of wrongdoing. There is no evidence defendant made any knowingly false representation to the magistrate to obtain

the search warrant. *Banks v. Delaware* (1978) 438 U.S. 154. See Defendant's Separate Statement Nos. 2, 3, 4 and the evidence cited therein. Plaintiff has presented no evidence to support his cause of action for intentional infliction of emotional distress. The facts of this dispute do not support this cause of action. See Brogdon deposition, p. 58:18-68:7. Plaintiff's cause of action for negligent infliction of emotional distress fails as a matter of law. *Potter v. Firestone Tire and Rubber Co.* (1994) 6 Cal.4th 965, 984."

At the request of counsel for plaintiff, oral argument was heard on October 28, 1994. Attorney J. Kenneth Jensen appeared as counsel of record for plaintiff; defendant Michael Brogdon was represented by John W. City, City Attorney, by and through Grant R. Telfer, Deputy. The court having heard oral argument and having considered all the papers previously submitted and good cause being shown, it is ordered that the motion by defendant Michael Brogdon for summary judgment in favor of defendant Brogdon and against plaintiff Alexander Bende is granted.

IT IS SO ORDERED:

Dated: December 5, 1994

s/ Anthony C. Joseph
HON. ANTHONY C. JOSEPH
JUDGE OF THE SUPERIOR COURT

APPROVAL AS TO FORM AND CONTENT BY:

Dated: November __, 1994.

_____

J. Kenneth Jensen, Esq.
Attorney for Plaintiff
Alexander Bende

APPENDIX C — ORDER OF THE COURT OF APPEAL, FOURTH APPELLATE DISTRICT, DIVISION ONE, STATE OF CALIFORNIA FILED JULY 1, 1997

COURT OF APPEAL, FOURTH APPELLATE DISTRICT
DIVISION ONE
STATE OF CALIFORNIA

DO23800

(Super. Ct. No. 664326)

ALEXANDER BENDE,

Plaintiff and Appellant,

v.

MICHAEL BROGDON,

Defendant and Respondent.

THE COURT:

The petition for rehearing is denied.

s/ Kremer
KREMER, P.J.

Copies to: All parties

APPENDIX D — ORDER OF THE SUPREME COURT OF CALIFORNIA FILED AUGUST 27, 1997

Fourth Appellate District, Division One, No. DO23800
S063001

IN THE SUPREME COURT OF CALIFORNIA

ALEXANDER BENDE,

Appellant,

v.

MICHAEL BROGDON,

Respondent.

Petition for review DENIED.

[stamp] GEORGE
Chief Justice